

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
Charlotte Division
Docket No. 3:15-CV-00163**

LEGACY DATA ACCESS, INC., a Georgia)
corporation, and DIANNE M. PETERS, a)
Georgia resident,)
)
Plaintiffs,)
)
v.)
)
)
CADRILLION, LLC, a North Carolina)
limited liability company, LEGACY DATA)
ACCESS, LLC, a North Carolina limited)
liability company, and JAMES YUHAS, a)
North Carolina resident,)
)
Defendants.)

ORDER

THIS MATTER is before the Court on the joint motion of Plaintiffs Legacy Data Access, Inc. and Diane M. Peters (collectively, “Plaintiffs”) and Defendants Cadrillion, LLC (“Cadrillion”) and James Yuhas (“Yuhas”) for Stay of Execution on the Judgment and Proceedings to Enforce It and to Release Obligations of James Yuhas Under Prior Letter of Credit pursuant to Rule 62(b) of the Federal Rules of Civil Procedure (Doc. No. 224). After a careful review of the Motion and Supporting Memorandum (Doc. No. 225), and noting Plaintiffs’ consent to the relief sought, the Court GRANTS the Motion.

1. On February 8, 2017, this Court entered a judgment against Cadrillion and Yuhas (the “2017 Judgment”) following a jury trial.

2. On March 21, 2018, this Court entered an order (the “2018 Stay Order”) granting the joint motion of Cadrillion, Yuhas, and Plaintiffs to stay proceedings to enforce the 2017 Judgment pending the appeal by Cadrillion and Yuhas to the United States Court of Appeals for the Fourth Circuit (the “Fourth Circuit”). (Doc. No. 156). As security for the judgment pending appeal and in

lieu of a supersedeas bond, Plaintiffs agreed to accept an Irrevocable Standby Letter of Credit from Paragon Commercial Bank, Paragon Commercial Bank Irrevocable Letter No. SLC-433 dated January 5, 2018, (the “2018 Letter of Credit”), in favor of Plaintiffs and on behalf of Cadrillion and Yuhas in the total amount of \$2,906,409.00.

3. The 2018 Stay Order provides in relevant part that, if the Fourth Circuit reverses or vacates the 2017 Judgment in its entirety, then Cadrillion and Yuhas may apply to this Court for, and the Court will enter, an order releasing the obligations of Cadrillion, Yuhas, and Paragon Commercial Bank under the 2018 Letter of Credit.

4. The Fourth Circuit subsequently issued a decision that, as relevant here, reversed and vacated the 2017 Judgment. See Legacy Data Access, Inc. v. Cadrillion, LLC, 889 F.3d 158 (4th Cir. 2018). The Fourth Circuit’s decision dismissed all claims against Yuhas, leaving Plaintiffs’ breach of contract claim against Cadrillion as the only claim remaining in the case. The Fourth Circuit remanded for a new trial on damages on the breach of contract claim against Cadrillion. and for this Court to reassess the appropriate amount of attorneys’ fees.

5. On August 8, 2019, following a jury trial held upon remand from the Fourth Circuit, this Court entered an Order and Judgment (the “2019 Judgment”) in favor of Plaintiffs and against Cadrillion in the total amount of \$3,002,982.68, plus post-judgment interest.

6. On September 4, 2019, Cadrillion timely filed a Notice of Appeal from the 2019 Judgment, and the appeal is currently pending before the Fourth Circuit.

7. Pursuant to Rule 62(b) of the Federal Rules of Civil Procedure, at any time after judgment is entered, a party may obtain a stay by providing a bond or other security. The stay takes effect when the court approves the bond or other security and remains in effect for the time specified in the bond or other security.

8. Cadrillion proposes, and Plaintiffs have agreed to accept, an Amendment to Irrevocable Standby Letter of Credit (the “2019 Letter of Credit”) from TowneBank, a copy of which is attached as Exhibit B to the Motion, in favor of Plaintiffs in the amount of \$3,355,816.69 as security for the 2019 Judgment pending appeal.

9. Given Plaintiffs’ consent to the relief requested in the Motion and to the security offered by Cadrillion and upon the record before it, the Court finds that a stay of execution on the 2019 Judgment and proceedings to enforce it pending appeal is warranted in this matter and that the 2019 Letter of Credit constitutes sufficient security to protect Plaintiffs during the pendency of the appeal.

10. The Court hereby stays execution on the 2019 Judgment and proceedings to enforce it during the pendency of the appeal and permits Cadrillion to provide Plaintiffs with the 2019 Letter of Credit in favor of Plaintiffs in the amount of \$3,355,816.69 pursuant to the following procedures:

a. Should the Fourth Circuit affirm the 2019 Judgment, in whole or in part, the stay shall extend for an additional ten (10) days following the issuance of the mandate from the Fourth Circuit to permit Cadrillion to voluntarily satisfy the full amount of the affirmed 2019 Judgment.

b. If, during such ten (10) day period, Cadrillion fails to voluntarily satisfy the full amount of the affirmed 2019 Judgment, Plaintiffs (jointly and severally) may apply to the Court for, and the Court will enter, an Order granting one or both Plaintiffs the right of execution against the 2019 Letter of Credit and directing TowneBank to pay, upon presentment of such Order, the affirmed amount of the 2019 Judgment to one or both Plaintiffs. For the avoidance of doubt, Plaintiffs are permitted to collect against the 2019 Letter of Credit whatever amount of the 2019 Judgment the Fourth Circuit may affirm on appeal, including post-judgment interest accruing on

the affirmed amount at 2.58% from January 25, 2019, through the date of collection under the 2019 Letter of Credit. Also for the avoidance of doubt, Plaintiffs, either individually or collectively, may not collect against Cadrillion or the 2019 Letter of Credit a total amount that is more than the affirmed amount of the 2019 Judgment, including post-judgment interest accruing on the affirmed amount at 2.58% from January 25, 2019 through the date of collection.

c. If, on the other hand, during such ten (10) day period, Cadrillion voluntarily satisfies the full amount of the affirmed 2019 Judgment *or* if the Fourth Circuit reverses or vacates the 2019 Judgment in its entirety (whether or not the Fourth Circuit remands the case for a new trial), Cadrillion may apply to this Court for, and the Court will enter, an Order releasing Cadrillion's and TowneBank's obligations under the 2019 Letter of Credit. Upon the presentment of such Order to TowneBank, the 2019 Letter of Credit will expire and all obligations arising thereunder shall be released.

11. The Court hereby releases the obligations of James Yuhas and Paragon Commercial Bank, as those obligations relate to Yuhas (but not as they relate to Cadrillion), under the 2018 Letter of Credit (Paragon Commercial Bank Irrevocable Letter No. SLC-433 dated January 5, 2018).

IT IS THEREFORE ORDERED pursuant to the procedures outlined above, the parties' Joint Motion for Stay of Execution on the Judgment and Proceedings to Enforce It and to Release Obligations of James Yuhas Under Prior Letter of Credit (Doc. No. 224) is GRANTED.

IT IS SO ORDERED.

Signed: October 22, 2019

A handwritten signature in black ink, appearing to read "Frank D. Whitney", written over a horizontal line.

Frank D. Whitney
Chief United States District Judge

